

- ## FINDINGS OF FACT AND CONCLUSIONS OF LAW

2. Did the injury arise out of and in the course of employment?
3. Did the worker provide both timely notice and timely written claim of accident?
4. Is there any defense which goes to the compensability of the claim?<sup>1</sup>

Additionally, the Board may review those preliminary hearing orders where a judge has exceeded his or her jurisdiction or authority in awarding benefits.<sup>2</sup>

In this instance, it is not disputed that claimant suffered a compensable accidental injury while employed with respondent. The only dispute is whether claimant's termination would justify respondent denying claimant temporary total disability compensation benefits. This goes to the question of whether claimant is temporarily totally disabled. That is not an issue over which the Board takes jurisdiction from a preliminary hearing. Therefore, the appeal by respondent from the Order of July 19, 2005, should be dismissed.

**WHEREFORE**, it is the finding, decision, and order of the Appeals Board that the Order of Administrative Law Judge Nelsonna Potts Barnes dated July 19, 2005, remains in full force and effect.

**IT IS SO ORDERED.**

Dated this \_\_\_\_ day of October, 2005.

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BOARD MEMBER

c: Gary K. Albin, Attorney for Claimant  
James B. Biggs, Attorney for Respondent and its Insurance Carrier  
Nelsonna Potts Barnes, Administrative Law Judge  
Paula S. Greathouse, Workers Compensation Director

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<sup>1</sup> K.S.A. 44-534a.

<sup>2</sup> K.S.A. 2004 Supp. 44-551.